



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Consideration of an agreement between City and owners of property south of Harney Lane which would indemnify City against losses incurred in defending Council's decision to allow oversize sewer line.

MEETING DATE: November 18, 1992

PREPARED BY: City Attorney

RECOMMENDED ACTION: Council consideration and possible approval of the attached draft agreement.

BACKGROUND: This matter involves the offer by owners of property south of Harney Lane (identified in the attached draft agreement) to pay for oversizing of a sewer line which could ultimately serve their properties.

An 8" sewer line is presently proposed for installation in conjunction with the Century Meadows project. The property owners have proposed increasing the line to 24" in order to provide capacity for their property when it develops at some future date.

At the October 21, 1992 meeting, the City Council directed staff to bring back an agreement between the property owners and the City to accomplish this, and to prepare appropriate environmental clearances. The negative declaration will be coming back to the Council for possible certification at the December 16, 1992 meeting.

The attached agreement reflects the previous discussions and agreements between the parties. Under this document, the property owners agree to do the following:

1. Pay directly to the Century Meadows developers all costs of oversizing the line;
2. Pay all costs to the City for engineering and other applicable fees for the oversizing project;
3. Pay all costs of oversizing the lift station, force main and collector lines at the time of construction, including any necessary redesign costs;
4. Defend and indemnify the City from any legal challenge to the oversizing project;
5. Dedicate all necessary easements for Harney Lane widening from Mills Avenue to the Southern Pacific Railroad right-of-way;
6. Dedicate the lift station site and associated easements.

APPROVED: _____

THOMAS A. PETERSON
City Manager



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AGENDA TITLE: Agreement for oversizing of sewer line south of Harney
Lane (Kjeldsen-Sinnock Report)
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In consideration, the City will consent to the size increase, and further agrees to consider a request at some future date for reimbursement of a portion of the cost. However, the City does not obligate itself by this agreement to approve such request.

The legal description for the easements and the lift station site are now being prepared and will, if Council approves, be attached to the executed agreement.

FUNDING: To be determined.

Respectfully submitted,



Bob McNatt
City Attorney

BM/vc

attachment - Note: Exhibit A, the Kjeldsen-Sinnock Study, is not included herein.
Exhibits C and D, the easement descriptions, will follow.

cc: Community Development Director
Assistant City Engineer

AGREEMENT

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THIS AGREEMENT, is made this _____ day of November, 1992 by and between MARIAN M. FRY, FELIX COSTA, CARL FINK, VERA PERRIN, WILLIAM BECKMAN and CHARLES BECKMAN (hereinafter collectively referred to as "Owners") and the CITY OF LODI, a political subdivision of the State of California (hereinafter referred to as "City").

W I T N E S S E T H :

WHEREAS, Owners have submitted to City a South Lodi Sanitary Sewer Study of the Harney Lane Lift Station Area (hereinafter referred to as "Study"), prepared by Kjeldsen-Sinnock & Associates, Inc., Civil Engineers (Exhibit A). The Study evaluated the feasibility of extending the Harney Lane Lift Station Service Area to serve the area south of Harney Lane;

WHEREAS, the Lodi City Council, relying on the accuracy of the Study has accepted the technical recommendations of the Study and the City staff report presented at the City Council meeting of October 21, 1992;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

1. Owners shall pay the following:

(a) Costs of design and oversizing of a twenty-four inch (24") sewer main within the limits of the Century Meadows Subdivision, as set forth in Alternative 4 of the Study identified above, in amounts to be agreed-upon with and paid directly to the Century Meadows developers.

(b) Costs of preparing plans to City specifications for the above and payment of appropriate engineering and other fees in accordance with City of Lodi written policies and requirements.

(c) Costs of oversizing the lift station, force main, and collector lines entering the lift station, as identified in Exhibit B hereto. payable at the time of approval of construction plans. It is understood that the present cost estimate of oversizing the lift station and force main is approximately One Hundred Ten Thousand Dollars (\$110,000). and the cost of oversizing the collector lines entering the lift station is approximately Sixty Thousand Dollars 1560,0001, per Exhibit B.

(d) Cost to modify the lift station as needed to later serve the area south of Harney Lane at the time of development.

2. Owners will indemnify, defend and hold harmless from and against any and all liability or actions accruing as a result of the City's decision to install such oversized facilities as referred to above, where such action or proceeding arises out of the City's approval of a negative declaration for said facilities.

3. Owners shall, upon execution of this agreement, dedicate to City:

(a) The lift station site and adjacent construction easement on the south side of Harney Lane, east of Mills Avenue, more particularly described in Exhibit C hereto.

(b) Street right-of-way and construction easement on the south side of Harney Lane from Mills Avenue to the Southern Pacific Railroad right-of-way, more particularly described in Exhibit D hereto.

(c) Owners acknowledge that such dedication is necessary concurrently with execution of this agreement since construction of the facilities must occur before development south of Harney Lane in order to serve areas north of Harney Lane which at present have priority under the City's Growth Management Plan.

4. Owners may, at an appropriate future date, apply to City for a reimbursement agreement in accordance with Lodi Municipal Code Chapter

16.40, but nothing herein shall be deemed to obligate the City to approve such reimbursement agreement.

5. Owners acknowledge that because of engineering concerns arising from such oversizing, the trunk sewer line in Harney Lane will require special construction due to its depth and that the number and location of future connections will be limited. Special manholes and/or parallel lines may be needed to serve adjacent property.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first hereinabove mentioned.

"CITY"
CITY OF LODI,
a political subdivision
of the State of California

"OWNERS"

THOMAS A. PETERSON
City Manager

MARIAN M. FRY

ATTEST:

FELIX COSTA

ALICE M. REIMCHE
City Clerk

CARL FINK

Approved As To Form:

VERA PERRIN

WILLIAM BECKMAN

BOBBY W. McNATT
City Attorney

CHARLES BECKMAN

Exhibit B

South Lodi Sanitary Sewer Analysis

	Existing Master Plan	South Lodi Sanitary Sewer Study				Phased Construction	
		Alt. 1	Alt. 2	Alt. 3	Alt. 4	Alt 4-1	Alt. 4-2
Area served:	292 acres North of Harney Ln.	244 acres North of Harney Ln.		546 acres North of Harney Ln. (Alt. 1&2) plus 302 acres south of Harney		244 acres North of Harney Ln.	302 acres South of Harney Ln.
Lift Sta. Location:	Lower Sac. N/Harney	Lower Sac. @ Harney	Mills Ave. @ Harney	Lower Sac. @ Harney	Mills Ave. @ Harney	Mills Ave. @ Harney	
Lift Sta. Cost:	\$280,000	\$285,000	\$298,000	\$478,000	\$433,000	\$390,000	\$43,000 ³
Oversize Main Cost:	\$67,000	\$70,000	\$92,000	\$227,000	\$211,000	\$127,000	\$84,000 ²
Total Cost:	\$347,000 ¹	\$355,000	\$390,000	\$705,000	\$644,000 ²	\$517,000	\$127,000
Cost above Ex. Plan/Alt. 1 to develop area north Harney:			\$39,000			\$166,000	
Cost per acre:	\$1,200	\$1,500	\$1,600	\$1,300	\$1,200	\$2,100	\$400

Notes:

- ¹ Costs per Nolte Development Impact Fee Study. ENR updated to July 1992
- ² Costs per Kjeldsen-Sinnock Study. July 1992
- ³ First phase of lift station estimated by City at 90% of total cost
- ⁴ Ex. Master Plan & Alt. 1 assumed to be equivalent at average cost of \$351,000.